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Legislative Proposal on Infant Formula and Food Products

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Report Highlights:

The Hong Kong government (HKG) has launched a 2-month public consultation on its legislative proposal on formula and food products for infants and young children under 36 months of age. In response to a an earlier survey finding that 7 out of 63 infant formulas contained iodine at a level not only lower than that prescribed by Codex but also below the intake level recommended by the World Health Organization, the HKG is expediting its legislative process on the regulation on these designated products. It aims to enact the regulation in 2013 with a grace period which has yet to be determined.

Summary

The Hong Kong government (HKG) has launched a 2-month public consultation on its legislative proposal on formula and food products for infants and young children under 36 months of age. The HKG indicated that the proposed regulation is based on Codex principles and international practices in order not to impede trade, as most formula products and foods intended for infants and young children in Hong Kong are imported from overseas. The proposed regulation will govern the nutrition and labeling of regulated products, but does not have any provisions regulating manufacturers' claims.

At a recent trade forum where the HKG introduced the legislative framework, the industry did not seem opposed to the introduction of the regulation. However, there are still many technical details that warrant clarifications and communication. The industry reminded the government to follow Codex and international practices and to avoid a standard specific to Hong Kong (and, thus, not prevailing in the international trade arena) since no products are specifically designed for Hong Kong given its small market size. Second, a trade representative voiced his preference for mandatory instead of voluntary regulation on claims. (The HKG is planning to implement a Hong Kong Code which provides voluntary guidelines regulating nutrition and health claims for formula and food products for infants and young children. Details are available at Gain report HK1228 available at <http://gain.fas.usda.gov/Lists/Advanced%20Search/AllItems.aspx>)

The Hong Kong government is inviting the public to submit comments on the legislative proposal. U.S. exporters who want to submit comments to the HKG should have them sent to the Center for Food Safety (Attention: Consultation on formula products and foods for infants and young children) at formulafoods_consultation@fehd.gov.hk before January 21, 2013 and copy ATO office at atohongkong@fas.usda.gov.

Background

Currently Hong Kong does not have any regulation specific for formula and food products for infants and young children under 36 months of age. These products, like other food products, are covered by a general food law which stipulates that all food for sale must be fit for human consumption. Moreover, they are exempted by Hong Kong's food labeling regulation.

There have always been voices urging the government to tighten regulation on infant formula and at the same time promote breastfeeding. The result of a government survey on the composition of infant formula in 2012 has prompted the government to expedite the legislative process. The survey tested 63 infant formula products available in Hong Kong and seven products were found to contain iodine at a level not only lower than that prescribed by Codex but also well below the intake level recommended by the World Health Organization.

Realizing that legislative initiative will take some time, the HKG plans to launch a Hong Kong Code first. The Hong Kong Code provides voluntary guidelines regulating the marketing, labeling and quality

of formula and foods for infants and young children under the age of 36 months. The Hong Kong Code is expected to come into force in late 2013. Though voluntary in nature, the Hong Kong Code is more likely to be more expansive in coverage than the mandatory legislation. The Code will also serve as an interim measure for those items also covered under the mandatory regulation until full enforcement of that regulation.

Legislative Proposal

According to the consultation paper, the legislative proposal is based on Codex standard and international practices in order not to pose any barriers to imports. Regulated products include formula products and foods intended for infants and young children under the age of 36 months. The proposed regulation covers four key areas:

- Codex requirement on nutritional composition (i.e. energy and 33 nutrients as specified by Codex) for infant formula before complementary feeding is introduced and the level of energy and each nutrient must fall within the range specified by Codex;
- Nutrition labeling requirement for infant formula by listing energy and the 33 nutrients specified by Codex;
- Nutrition labeling requirement for follow-up formula intended for infants and young children under the age of 36 months by listing energy and the 25 nutrients specified by Codex;
- Nutrition labeling requirement for foods intended for infants and young children under the age of 36 months by listing energy and nutrients required for such foods as specified by Codex.

The consultation paper also seeks the public's views on an appropriate length of grace period for the full implementation of the regulation.

Moreover, it invites the public to comment on whether sodium should be labeled for non-cereal-based foods for infants and young children. Codex does not have such requirement for non-cereal-based foods. If Hong Kong's requiring of mandatory labeling of sodium content for non-cereal-based foods, the HKG hinted that this may pose potential barrier for imports. However, prolonged excessive intake of sodium may increase the risk of developing high blood pressure and the labeling of sodium content is already required in some countries.

The proposed regulation does not intend to govern nutrition and health claims carried by the designated products. The HKG explained that they wanted to introduce mandatory regulation on the nutrition and labeling of formula and food products as early as possible. They realize that the inclusion of regulations on claims will take a longer time given its complexity. The HKG's preliminary plan is to develop a positive list of claims allowed in Hong Kong in the event of regulation.

In short, the legislative proposal focuses on the regulation of the nutrition composition and labeling of infant formula. For follow-up formula and foods intended for infants and young children under 36

months of age, the proposed regulation only stipulates labeling but not nutrition requirements.

Details of the proposed regulation can be retrieved on the legislative proposal website of the Hong Kong Food Safety Center.

Timeframe

The HKG is conducting a two-month long consultation on the proposed regulation, which will end on January 21, 2013. It plans to enact the legislation in 2013. The length of the grace period has yet to be decided, but officials stated that it will take into account the preparation time required by the trade and testing capacities.